



Building and Development Tribunals
Queensland Government

Department of Local Government, Planning,
Sport and Recreation

APPEAL
Integrated Planning Act 1997

File No. 3-04-054A

BUILDING AND DEVELOPMENT TRIBUNAL - DECISION

Assessment Manager: Caboolture Shire Council

Site Address: 11 Regents Court, Upper Caboolture

Applicant:

Nature of Appeal

The appeal is against the decision of the Caboolture Shire Council not to grant a siting relaxation for a proposed garage to be constructed on land described as Lot 103 on RP 895674, and situated at 11 Regents Court, Upper Caboolture.

Council considers that under:-

- 1 Council's Amenity and Aesthetics policy, the building or structure, when built, will be in extreme conflict with the character of the proposed buildings neighbourhood;
and
- 2 Section A1 (c) of the Queensland Development Code (QDC) there is an alternative location on the site for the proposed garage other than within the Front Boundary setback, which would be in compliance with A1(c)(ii) of the QDC.

NOTES :- The decision on each issue is considered separately by different Tribunals. Both hearings were held at the same time and date.

- 1 The decision on the Amenity and Aesthetics issue is considered and responded to in this determination.
 - 2 The decision on the siting issue is considered separately and a copy of that Tribunal decision is attached.
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Date and Place of Hearing: 9.00am Friday 20 August 2004.
Inspection of the site and hearing at
11 Regents Court, Upper Caboolture.

Tribunal: Mr Phil Breeze Tribunal member
Mr John Rauber Tribunal member
Mr L F Blumkie Tribunal Chairperson

Present: Applicant
Owner
Observer
Caboolture Shire Council representative
Mr L Blumkie Tribunal Chairperson
Mr Phil Breeze Tribunal
Mr John Rauber Tribunal

Decision

The Tribunal, in accordance with Section 4.2.34 (2) (b) of the Integrated Planning Act, changes the decision appealed against and with the consent of the owner allows a double carport subject to the following conditions:

- 1 Starting at the front wall of the Class 1 dwelling and 6m towards the street;
- 2 Slightly offset from the existing driveway to allow the front left hand corner post to be clear of the existing driveway;
- 3 6m to 6.5m wide to allow suitable access to the existing garage with a car parked in the carport on the right hand side;
- 4 Galvanised steel support posts powder coated;
- 5 The 2 front posts to have a brick base to match the existing brick base to the columns in the front entrance;
- 6 Flat roof aligning with the existing fascia and gutter of the existing house, and with a slight fall to the front;
- 7 Stormwater connected to the street channel in accordance with Council requirements;
- 8 Colour scheme to match the existing house fascia and gutter;
- 9 Colourbond roof sheeting (cream or equivalent);
- 10 Lattice on the sides if required.

This decision needs to be read in conjunction with the separate Tribunal decision on the siting of the carport. (copy attached).

Background

Application was made on 7 July 2004 for a relaxation to erect a 6m x 6m garage within the road boundary clearance.

Council refused the application on the 13 July 2004.

The applicant lodged an appeal with the Registrar on the 4 August 2004.

Material Considered

In coming to a decision, consideration was given to the following material: -

1. Drawings accompanying the appeal.
2. Copy of the Decision Notice dated 13 July 2004.
2. Copy of the Appeal Notice dated 4 August 2004.
3. Verbal submissions from the applicant
4. Verbal submissions from the owner
5. Verbal submissions from the observer
6. Verbal submissions from the Caboolture Shire Council representatives.
7. *Standard Building Regulation 1993 (SBR)*
8. The Integrated Planning Act 1997.
9. Caboolture Shire Council Resolution Policy on Amenity and Aesthetics. Policy No 202/02
10. An inspection of the neighbourhood

Findings of Fact

A Standard Building Regulation - Division 4 - Amenity and Aesthetics

Caboolture Shire Council adopted an Amenity and Aesthetics policy under Section 50(1) of the Standard Building Regulation on the 5 September 2000 and amended that policy on the 19 February 2002 and again on the 17 December 2002.

The resolution amongst other things declared that all development applications for Class 10 Buildings located in Residential areas etc are to be subject to amenity and aesthetics assessment by the Caboolture Shire Council.

Section 50 (2) of the Standard Building Regulation 1993 states that applications mentioned in Section 50 (1) must be assessed by the local government for the amenity and aesthetics impact of the proposed building work.

Section 50 (3) states that the local government may refuse an application to which subsection (2) applies if the building, when built, would have an extremely adverse effect on the amenity or likely amenity of the building's neighbourhood etc.

B Site

The site is developed with an existing class building. The proposed garage, the subject of the appeal, when marked out on the site as shown on the site plan, blocked vehicular access to the existing single garage. The owner was not aware of this fact, and confirmed this was not acceptable.

The site falls from the rear to the front (about 2m) and from the left to the right (about 1.5m) and has 2 Council sewers (including manholes) running parallel to the right hand boundary and about 1m from the boundary.

C Development in the neighbourhood.

An inspection of the neighbourhood indicated the majority of properties were developed with Class 1 buildings. There were numerous examples of colourbond garages, the majority of which were on corner allotments, and none appeared to be within 6m of the front road boundary clearance.

D Forms of buildings and Council policy

The local government representative was unable to table a written policy on the forms of buildings, which the local government considered acceptable under their amenity aesthetics resolution.

Reasons for the Decision

Taking into account the particular circumstances of the site and after consideration of a number of alternative options for additional car accommodation, the owner (after acknowledging a garage would not be workable), agreed a carport within the 6 front boundary clearance was the most satisfactory solution.

The Council representative, after taking into account the particular circumstances of the site, also agreed a carport was an acceptable alternative.

The Tribunal considered the overall shape, size, height, color scheme of the proposed double carport and with the consent of the owner imposed the following conditions on the application:-

- 1 Starting at the front wall of the Class 1 dwelling and 6m towards the street;
- 2 Slightly offset from the existing driveway to allow the front left hand corner post to be clear of the existing driveway;
- 3 6m to 6.5m wide to allow suitable access to the existing garage with a car parked in the carport on the right hand side;
- 4 4 galvanised steel support posts powder coated;
- 5 The 2 front posts to have a brick base to match the existing brick base to the columns in the front entrance;
- 6 Flat roof aligning with the existing fascia and gutter of the existing house, and with a slight fall to the front;
- 7 Stormwater connected to the street channel in accordance with Council requirements;
- 8 Colour scheme to match the existing house fascia and gutter;
- 9 Colourbond roof sheeting (cream or equivalent);
- 10 Lattice on the sides if required.

The Council representative agreed that a double carport with the above conditions would not be in extreme conflict with the character of the proposed building's neighbourhood.

Hence, in accordance with section 4.2.34(2) (b) of the Integrated Planning Act the Tribunal decided to change the decision appealed against and with the consent of the owner allow a double carport subject to the following conditions:-

1. Starting at the front wall of the Class 1 dwelling and 6m towards the street;
2. Slightly offset from the existing driveway to allow the front left hand corner post to be clear of the existing driveway;
3. 6m to 6.5m wide to allow suitable access to the existing garage with a car parked in the carport on the right hand side;
4. Galvanised steel support posts powder coated;
5. The 2 front posts to have a brick base to match the existing brick base to the columns in the front entrance;
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7. Stormwater connected to the street channel in accordance with Council requirements;
8. Colour scheme to match the existing house fascia and gutter;
9. Colourbond roof sheeting (cream or equivalent);
- 10 Lattice on the sides if required.

This decision needs to be read in conjunction with the separate Tribunal decision on the siting of the garage.

Leo F Blumkie
Building and Development
Tribunal Chairperson
Date: 26 August 2004

Appeal Rights

Section 4.1.37. of the Integrated Planning Act 1997 provides that a party to a proceeding decided by a Tribunal may appeal to the Planning and Environment Court against the Tribunal's decision, but only on the ground:

- (a) of error or mistake in law on the part of the Tribunal or
- (b) that the Tribunal had no jurisdiction to make the decision or exceeded its jurisdiction in making the decision.

The appeal must be started within 20 business days after the day notice of the Tribunal's decision is given to the party.

Enquiries

All correspondence should be addressed to:

The Registrar of Building and Development Tribunals
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